



DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-82,156]

JOHNSTOWN SPECIALTY CASTINGS, INC.
A SUBSIDIARY OF WHEMCO
JOHNSTOWN, PENNSYLVANIA

Notice of Negative Determination
on Reconsideration

The initial investigation, initiated on February 8, 2012, on behalf of workers of Johnstown Specialty Castings, Inc., a subsidiary of WHEMCO, Johnstown, Pennsylvania (subject firm) resulted in a negative determination, issued on January 8, 2013. The Department's notice of negative determination was published in the Federal Register on February 6, 2013 (78 FR 8591).

The group eligibility requirements for workers of a Firm under Section 222(a) of the Act, 19 U.S.C. § 2272(a), can be satisfied if the following criteria are met:

(1) a significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) (A) (i) the sales or production, or both, of such firm have decreased absolutely;

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) imports of articles like or directly competitive with articles—

(aa) into which one or more component parts produced by such firm are directly incorporated, or

(bb) which are produced directly using services supplied by such firm,
have increased; or

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B)(i)(I) there has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Initial investigation

The initial investigation began when a representative from United Steelworkers, Local 2632, filed a petition for Trade Adjustment Assistance (TAA), dated November 6, 2012, on behalf of workers and former workers of the subject firm. The workers are engaged in employment related to the production of steel castings, slag pots, steel rolls, steel sleeves, and mill liners.

The negative determination was based on the findings that there was less than a significant number or proportion of worker separations at the subject firm during the relevant time period (November 2011 through October 2012).

Reconsideration investigation

By application dated February 2, 2013, the petitioner requested administrative reconsideration of the Department's negative determination regarding the eligibility of the subject worker group to apply for adjustment assistance.

In the request for reconsideration, the petitioner stated that "When (the petition was) filed . . . temporary layoffs had just started . . . On January 23, 2013, Whemco . . . sent a WARN notice letter . . . stating new layoffs will begin March 4, 2013"

On February 25, 2013, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration in order to conduct further investigation to determine worker eligibility. The Department's Notice was published in the Federal Register on March 8, 2013 (78 FR 15048).

In the course of the reconsideration investigation, the Department carefully reviewed previously-submitted information and collected additional information from the subject firm to address the petitioner's allegation.

According to 29 CFR 90.2, *Layoff* means a suspension from pay status for lack of work initiated by the employer and expected to last for no less than seven (7) consecutive calendar days; *Significant number or proportion of the workers* means that a) in most cases the total or partial separations, or both, in a firm or appropriate subdivision thereof, are the equivalent to a total unemployment of five percent (5 percent) of the workers or 50

workers, whichever is less; or b) at least three workers in a firm (or appropriate subdivision thereof) with a work force of fewer than 50 workers would ordinarily have to be affected; and *Threatened to begin* means, in the context of impending total or partial separations, the date on which it could reasonably be predicted that separations were imminent.

The information collected on reconsideration confirmed that, during the relevant time period, there were no layoffs, or a threat of layoffs, at the subject firm. Therefore, Section 222(a)(1) has not been met because a significant number or proportion of the workers at the subject firm did not become totally separated or partially separated during the period under investigation.

CONCLUSION

After careful review of the Trade Act of 1974, as amended, applicable regulation, and information obtained during the initial and reconsideration investigations, I determine that workers and former workers of Johnstown Specialty Castings, Inc., a subsidiary of WHEMCO, Johnstown, Pennsylvania, are ineligible to apply for adjustment assistance.

Signed in Washington, D.C., on this 3rd day of April, 2013

DEL MIN AMY CHEN
Certifying Officer, Office of
Trade Adjustment Assistance
4510-FN-P

[FR Doc. 2013-08930 Filed 04/16/2013
at 8:45 am; Publication Date: 04/17/2013]